IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8400 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

P K DATTANI

Versus

GOVT. OF INDIA

Appearance:

MR JAGDISH MEHTA for MR YOGESH S LAKHANI for Petitioner

None present for Respondent No.1

MR MA BUKHARI, on instruction by HM BHAGAT, for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/06/2000

ORAL JUDGEMENT

1. The petitioner by this petition under Articles

226 and 227 of the Constitution of India challenges the Order dated 26th September, 1990, Annexure-G, of the respondent No.1 under which his revision application filed against the order of the respondent no.2 dated 6/8/1988 came to be dismissed. The mining lease for minor mineral chalk has been granted in favour of the petitioner only for 3 hectares i.e. 7.5 acres as against the demand of the petitioner of 30 acres of the land.

2. Two fold contentions have been raised by the learned counsel for the petitioner challenging the Order of the Central Government in revision. Firstly, it is contended that respondent no.1 decided the revision application without giving an opportunity of hearing to the petitioner. Second ground raised is that respondent no.1 has passed the Order without application of mind.

3. Shri Bukhari, learned AGP, supported the Order passed by the Central Government. In his submission, the petitioner has received a notice of the hearing of the revision application and it cannot be said that an opportunity of hearing is not given to the petitioner. On merits, the learned counsel for the respondent submits that it is not the rule or the law that the area applied for as a whole has to be granted for the mining operation in favour of the applicant. He submits that looking to the mineral deposits in the area, 7.5 acres land was sufficient for beneficial mining operations.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. The adjournment of the matter prayed for cannot be granted by the authority or the court as of right. It is not a matter of rule or right. Only in case where the authority or the Court, as the case may be, is satisfied that it is a good cause for adjournment of the matter as prayed for, this discretion may be exercised in favour of the party concerned. This is a developing tendency amongst the litigants to take it to be a right or rule that the request made for the adjournment of the matter is to be granted by the authority or the Court. Long time is being taken by the authority and the Court, to decide the matters and for this inordinate delay, one of the reasons is this tendency of the litigants to make a request for the adjournment of the matter.

5. In this case, notice of the hearing of the revision application was sent to the petitioner by the respondent no.1 and the same has also been received by the petitioner well in time. The petitioner has stated that telegram is sent to respondent no.1, therein request

has been made for the adjournment in the revision application on the ground of illness of the petitioner. The copy of the said telegram has not been produced on the record of this Special civil Application and in absence of that document, it is difficult to accept that the ground given for the adjournment of the matter, is mentioned in the telegram. Otherwise also, the petitioner has not produced any proof of his illness to satisfy the court. In this matter, in the absence of any material on record to prove the illness of the petitioner and that, too, of the nature where he has been rendered, totally unable to travel to attend the hearing of the matter, the plea raised by the petitioner cannot be accepted. From the order of the authority, respondent no.1, I find that the telegram sent by the petitioner was not received by it before the completion of the arguments.

6. The petitioner has not proved on which date this telegram was sent to respondent no.1. This telegram, in the memo of the Special Civil Application, was stated to be sent on 18th September, 1990, but it is not proved by producing the document, that is, receipt from the Department of Telecommunication. The document which has been produced at Page No.23 is hardly of any substance and help to the petitioner. It is totally a blank paper. In this document, no details of the dates and other material facts has been given and it is a waste paper. Examining the matter from any aspect or angle, the contention of the learned counsel for the petitioner that the revision application has been decided without giving any opportunity of hearing to the petitioner cannot be accepted. If any blame lies, then it does lies with the petitioner. It is a case where the petitioner has not availed of that opportunity. On merits also, the petitioner has no case. The petitioner justifies its claim for mining lease for the area of 30 acres on the basis of estimated mineral deposits in the area. As per the case, total estimated mineral deposit is 18000 to 20000 tonnes in the applied area of 30 acres and the area granted of 7.50 acres may not be a viable unit. I find from the order of the respondent no.1 and that has not been challenged by the petitioner in the Special Civil Application that according to the report of the Director Geology and Mining, the estimated reserves in the applied area is about 38000 tonnes. The report of the Director, Geology and Mining has rightly been relied by the respondent no.1 and to which no exception can be made. Two other persons have been granted mining lease in the area for 3 hectares each and the grant of 3 hectares area to the petitioner is in no way discriminatory. The

petitioner has failed to make out any case for the interference of this Court and accordingly, this petition fails and the same is dismissed. Rule is discharged. Interim relief, if any granted, stands vacated. The petitioner is directed to pay Rs.500/- as the costs of this petition to respondent no.2. No order of costs in favour of respondent no.1 as none put appearance for it.

(S.K. Keshote, J.)
(kamlesh)